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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,304	02/06/2004	David J. Gruis	100P310US01	5439

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IPLM GROUP, P.A.
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EXAMINER

CORBIN, ARTHUR L

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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10/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/774,304	Applicant(s) GRUIS, DAVID J.	
	Examiner Arthur L. Corbin	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 5, 16 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>072804</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 5, 17 and 20 are objected to because of the following informalities: In claims 5, 17 and 20, line 1, "of a" should be changed to ", of the" and line 2, "of" should be changed to ", of a". Appropriate correction is required.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 8 is indefinite in reciting "step 8 (a)", which can be corrected by changing "8" to "7". Claim 17 is indefinite in not reciting to what "a dark portion and a white portion" refers. Corrections are required without new matter.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8, 10-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gundlach et al (5,925,400, col. 19, lines 5-18) in view of Leidy et al (3,840,677, col. 3, lines 30-33 and col. 7, lines 59-65) or Sienkiewicz et al (4,162,332, col. 6, line 54 to col. 7, line 27). Gundlach et al discloses preparing turkey bacon by coextruding dark and light comminuted turkey into alternating layers of dark and light, heat processing and/ or smoking, combining with flavoring agents, chilling and slicing into strips. It would have been obvious to fry the sliced strips in Gundlach et al to

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prepare the turkey bacon for consumption since it is well known to fry simulated sliced bacon strips for consumption, as evidenced by either secondary reference. Further, it would have been obvious to chill and later reheat any leftover turkey bacon (claims 2 and 3) since treatment of leftover meat products in this manner is conventional. Finding the optimum frying parameters, the optimum amount of flavoring, the optimum heating conditions, the optimum percent of dark and light turkey and the optimum number and size of each slice or strip (claims 4, 5, 7, 11-16, 18 and 20) would require nothing more than routine experimentation by one reasonably skilled in this art.

6. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gundlach et al in view of Leidy et al or Sienkiewicz et al as applied to the claims above, and further in view of Kunert et al or Kazemzadeh. It would have been obvious to grind the turkey bacon prepared in the process of Gundlach et al, as above modified, into bits since it is well known to prepare bacon bits for seasoning on salads and soup, as evidenced by either Kunert et al or Kazemzadeh.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keszler shows preparation of simulated bacon products from poultry starting materials.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can normally be reached on Monday-Friday from 10:30 AM to 8:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton I. Cano, can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a horizontal line extending to the right.

Arthur L Corbin
Primary Examiner
Art Unit 1794

10-22-07